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10/752,216	01/06/2004	Edward Boutwell	11112-3	3569

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EXAMINER

CHIN, PAUL T

ART UNIT PAPER NUMBER

3652

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/752,216

Applicant(s)

BOUTWELL, EDWARD

Examiner

PAUL T. CHIN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/6/2004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on January 6, 2004, was filed and the submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner. However, some of the references have been crossed out and considered because they are not closely related to the application.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Drawings

3. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the photocopies of Figs. 1-3 does not clearly show the detailed structure. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Objections

4. Claim 1 is objected to because of the following informalities: it appears that the word "a" before "least" (claim 1, line 3) should be changed to -- at --. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-6, 8-10, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The exact meaning of the phrases "a hook along the length of the stalk" (claim 1, lines 2-3, and claim 3, lines 2-3) are not clearly understood because the hook is not located *along* the stalk. Figure 1 shows a hook (50) located between two ends. Moreover, the claimed language of the phrase "picking up refuse and a portion of the bag into the jaws" (claim 3, line 7) is not clearly understood as to how the "refuse and the portion of the bag is picked up into the jaws. It is understood that only the refuse is picked up. Further, there is no antecedent basis for "the opening of the bag" (claim 1, line 9), or "the opening of said hook" (claims 8-10, line 1).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7, 11, 12, and 14-17, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hennessy et al. (4,225,174).

Hennessy et al. (4,225,174) discloses a pickup device and method comprising a stalk (14) having two ends, a handle (Figs. 1 and 3) having stationary handle (54) and a

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movable handle or a trigger (18), a spring (76) for biasing means, a pair of jaws (30,30) at one end, a hook (44) mounted at a location substantially between the handle and the distal end of the jaws (see Fig. 3), a bag (B) having an opening and a pair of walls opposite side of the opening.

9. Claims 1-6, 8-10, and 13, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hennessy et al. (4,225,174) in view of Hemans (4,958,871).

Hennessy et al. pickup device (4,225,174), as presented in section 7 above, does not show that the hook is oriented towards the handle. However, Hemans (4,958,871) shows a hook (16) being oriented towards the handle.

Re claim 8, accordingly, it would have been obvious design choice to provide an upwardly pointed hook (instead of a hook 44) on the Hennessy et al. pickup device (4,225,174) as taught by Hemans (4,958,871) in order to place an opening of the bag into the hook.

Re claims 9 and 10, it would have been obvious design choice to provide the desired structural dimensions such as nine inches or more than ten inches from the distal end of the jaws on the Hennessy et al. (4,225,174) to provide for a bigger and deeper bag.

Re claim 13, it would have been obvious design choice to provide a plurality of serrations on the hook in order to provide a better friction to grip the bag.

Re claims 1 and 3, Hennessy et al. pickup device (4,225,174) and method does not show a bag having at least one handle. However, Hemans (4,958,871) shows a bag having at least one handle. Accordingly, it would have been obvious design and method to operate a bag with a handle on the hook of Hennessy et al. pickup device (4,225,174) for an alternative of attached the bag to the hook.

10. Claims 1-17, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (5,503,442) in view of Hemans (4,958,871).

Lee (5,503,442) discloses a pickup device and method comprising a stalk (2) having two ends, a handle (Figs. 1 and 3) having stationary handle and a movable handle or a trigger, a spring (75) for biasing means, a pair of jaws (4a, 4b) at one end, a hook (4b1, 10) mounted at a location, and a bag (Fig. 6) having an opening and a pair of walls opposite side of the opening. Lee (5,503,442) does not show that *the hook being oriented towards the handle and a bag having at least one handle*.

However, Hemans (4,958,871) shows a *hook (16) being oriented towards the handle and a bag having at least one handle*.

Re claim 8, accordingly, it would have been obvious design choice to provide an upwardly pointed hook (instead of a hook 44) on the Lee (5,503,442) as taught by Hemans (4,958,871) in order to place an opening of the bag into the hook.

Re claims 9 and 10, it would have been obvious design choice to provide the desired structural dimensions such as nine inches or more than ten inches from the distal end of the jaws on the Lee (5,503,442) to provide for a bigger and deeper bag.

Re claim 13, it would have been obvious design choice to provide a plurality of serrations on the hook in order to provide a better friction to grip the bag.

Re claims 1 and 3, accordingly, it would have been obvious design and method to operate *a bag with a handle* on the hook of Lee (5,503,442) for an alternative of attached the bag to the hook.

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Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (703) 305-1524. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



PAUL T. CHIN
Examiner
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